



DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1735

RIN 0572-AC24

Expansion of 911 Access Loans and Loan Guarantees

AGENCY: Rural Utilities Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Rural Utilities Service (RUS) is adopting as a final rule, without change, an interim rule to implement the Expansion of 911 as authorized by Section 315 of the Rural Electrification Act of 1936 (RE Act) as provided for in Section 6107 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). The interim rule codified the Secretary's authority to make loans in five areas of eligibility to expand or improve 911 access and integrated emergency communications systems in rural areas for the Telecommunications Loan Program.

DATES: Effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], we are adopting as a final rule the interim rule published at 76 FR 56091-56094 on September 12, 2011.

FOR FURTHER INFORMATION CONTACT: David Villano, Assistant Administrator, Telecommunications Program, USDA - Rural Utilities Service, 1400 Independence Avenue,

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SUPPLEMENTARY INFORMATION:

Background

A. Introduction

The Agency improves the quality of life in rural America by providing investment capital for deployment of rural telecommunications infrastructure. Financial assistance is provided to rural utilities; municipalities; commercial corporations; limited liability companies; public utility districts; Indian tribes; and cooperative, nonprofit, limited-dividend, or mutual associations. In order to achieve the goal of increasing economic opportunity in rural America, the Agency finances infrastructure that enables access to a seamless, nationwide telecommunications network. With access to the same advanced telecommunications networks as its urban counterparts, especially broadband networks designed to accommodate distance learning, telework, and telemedicine, rural America will eventually see improving educational opportunities, health care, economies, safety and security, and ultimately higher employment. The Agency shares the assessment of Congress, State and local officials, industry representatives, and rural residents that broadband service is a critical component to the future of rural America and modern emergency communications capabilities are critical to the safety and security of all Americans. The Agency is committed to ensuring that rural America will have access to affordable, reliable, telecommunications and broadband services and to provide a healthy, safe, and prosperous place to live and work.

B. Regulatory History

Following the September 11, 2001, attacks on the United States, significant Congressional attention was placed on weaknesses in the nation's emergency communications capabilities. The ability of rural communities, carriers and emergency responders to keep up with changing communications technologies was and continues to be a concern of emergency response professionals. Interoperability; or the ability of emergency responders from various agencies and jurisdictions to communicate with each other is also a pressing national need.

In 2002, the Congress gave the RUS statutory authority to "to expand or improve 911 access and integrated emergency communications systems in rural areas" in section 315 of the RE Act (6102 of the 2002 Farm Security and Rural Investment Act of 2002). No regulations were ever proposed to implement that section.

In 2008, the Congress re-authorized section 315 of the RE Act and added language to further define eligible loan purposes. It also clarified that projects could be funded from appropriations made to the RUS telecommunications program.

In 2011, the President launched a major initiative to use wireless 4G technology to create a nation-wide interoperable emergency communications network. The plan contemplates using dual-use 4G wireless technologies in rural areas to address public safety and private sector communications needs.

Rural areas face significant challenges in deploying emergency communications systems. The 911 Program Office housed within the National Transportation Safety Administration specifically noted that “(r)ural and tribal 911 centers face special challenges. They typically serve areas that are large geographically but less-densely populated than urban areas. Because it may take first responders longer to reach the scene of an emergency, call-takers in public safety answering points (PSAPs) serving rural areas may be required to stay on the phone longer with callers or provide more extensive emergency instruction to callers until help arrives. And in medical emergencies, hospitals are often farther away which results in extended transport times, making the ambulance unavailable for other calls in its response area – in areas that may have very limited coverage to begin with. The limited responder resources typical of rural areas can be more quickly overwhelmed in disasters or large-scale incidents.” The program office went on to observe that “supporting rural PSAPs is vitally important, particularly because it may take longer for help to arrive in rural areas, and the call-taker may make an even bigger difference in the outcome of an emergency situation.” (see <http://www.911.gov/911-issues/challenges.html>)

The sixty-minute period immediately following a traumatic injury, like an injury resulting from a car crash is known as the “golden hour.” The risks of death or permanent injury increase dramatically if medical attention is not given within that first hour. In rural America, distance and sparse population work against the quick discovery and treatment of injuries resulting from an individual or mass emergency. In rural areas the ability to reach a person in distress can be the difference between life and death or recovery and disability.

Congress twice enacted section 315 to give the RUS flexible financial tools to help rural communities, service providers and governmental entities address their emergency communications needs. By giving clear loan authority to the agency, RUS would have the tools to leverage public and private resources to speed the rural deployment of a dual-use public safety/commercial wireless network, address homeland security communications needs along America's rural international borders; finance enhanced 911 capabilities for carriers and communities to precisely locate a rural wireless call to 911 or to finance next-gen 911 upgrades which would allow citizens to contact 911 via text message or send to emergency responders cell phone photos or short videos of a crime scene or accident location. E911 location accuracy requirements pose unique challenges for rural wireless carriers. The new authority would give the agency clear authority to finance wireless upgrades which relate to public safety and security, even if it does not finance the entire wireless communications systems.

Without this authority, RUS would be very limited in its ability to make financing available to address specific rural emergency communications needs. Without this authority, the RUS telecommunications statute would generally prohibit the agency from financing municipal investments.

As a loan program which must meet the rigorous financial and engineering feasibility requirements, the agency expects no impact on its subsidy rate.

RUS has conducted extensive tribal consultations in 2010 and 2011 related to implementation of new authorities for substantially underserved trust areas. Through those

consultations, the agency had discussions with tribal leaders on the entire portfolio of RUS programs. This authority could be useful in addressing some of the emergency communications needs raised by tribal leaders in some of those discussions. Tribal areas are among the regions of the United States with the least connectivity to 911 and other emergency communications systems.

The regulation would simply codify the authority contained in section 315 of the RE Act.

C. Rule Changes

The amendment to 7 CFR Part 1735 implements Section 315 of the Rural Electrification Act of 1936 (RE Act) as provided in Section 6107 of the Food, Conservation, and Energy Act of 2008 by clarifying that the expansion of 911 access & integrated interoperable emergency communications systems are eligible purposes of the RE Act.

Section 6107 of the Food, Conservation, and Energy Act of 2008 added Section 315 of RE Act to clearly authorize the RUS to make loans for the following purposes:

- (1) 911 access;
- (2) integrated interoperable emergency communications, including multiuse networks that provide commercial or transportation information services in addition to emergency communications services;
- (3) homeland security communications;
- (4) transportation safety communications; or
- (5) location technologies used outside an urbanized area.

The provision also clarified that the Agency could consider State or local 911 fees to be security for a loan under this section and that loans may be made in certain circumstances to an emergency communication equipment provider to accomplish the purposes of this section where a State or municipality may be prohibited from incurring debt.

Comments on the interim rule were required to be received on or before November 14, 2011. We received one comment supporting the amendments to 7 CFR 1735 by that date. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

This action also affirms information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act. Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 1735:

Loan programs – communications, Reporting and recordkeeping requirements, Rural Areas, Telephone.

**PART 1735 – GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS–
TELECOMMUNICATIONS PROGRAM**

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 1735 and that was published at 76 FR 56091 on September 12, 2011.

February 24, 2012

James R. Newby
Acting Administrator
Rural Utilities Service

Date

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